

To: Zarker, Ken (ECY)[kzar461@ecy.wa.gov]
Cc: Parsons, Doug[Parsons.Douglas@epa.gov]; Dominic Homac[dhomac@ecos.org]; Carolyn Hanson[chanson@ecos.org]
From: Alexandra Dapolito Dunn
Sent: Fri 8/12/2016 1:41:29 PM
Subject: Re: OCCSP and ECOS Engagement on New TSCA

Ken,
Sorry about the timing. If you have any thoughts on the proposal as drafted let us know. Saw your note to Jim about the list of 10 chemicals and state input. So maybe those sorts of activities described generally (state - federal engagement/helping states coordinate and prioritize in some way) might be included?

Alexandra Dapolito Dunn, Esq.

Executive Director & General Counsel

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See my research: <http://ssrn.com/author=1356207>

Register Now! ECOS Fall Meeting, 9/26-28, Wheeling, WV, www.ecos.org

On Fri, Aug 12, 2016 at 9:27 AM, Zarker, Ken (ECY) <kzar461@ecy.wa.gov> wrote:

Hi - I'm on a flight to Seattle and probably miss the call. I'll catch up next week.

Looking forward to this new opportunity.

Thanks,

Ken Zarker, Manager
P2 & Regulatory Assistance Section
WA State Dept. of Ecology
mobile: +1 (360) 280-9917

Sent from my iPhone

> On Aug 11, 2016, at 12:52 PM, Parsons, Doug <Parsons.Douglas@epa.gov> wrote:

>

> Conference line [Redacted by EPA pursuant to U.S.C. 552(b)(6) relating to personal privacy.]

>

>

> From: Alexandra Dapolito Dunn [mailto:adunn@ecos.org]

> Sent: Thursday, August 11, 2016 12:04 PM

> To: Parsons, Doug <Parsons.Douglas@epa.gov<mailto:Parsons.Douglas@epa.gov>>;
Dominic Homac <dhomac@ecos.org<mailto:dhomac@ecos.org>>; Carolyn Hanson
<chanson@ecos.org<mailto:chanson@ecos.org>>

> Subject: Re: OCCSP Proposal from ECOS & First 10 Workplan Chemicals Engagement

>

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> Doug, I'm wondering if we can fit in a call tomorrow afternoon? I am out the week of the
15th and would like our staff to be able to work on the proposal while I'm out. I can do
between 1 and 2?

>

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> Alexandra Dapolito Dunn, Esq.

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> Executive Director & General Counsel

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> Environmental Council of the States

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Twitter @ECOSates

>

> See my research:

<http://ssrn.com/author=1356207><<https://connect.emailsrvr.com/owa/redir.aspx?C=pQX3knSRPk2G3KwOd41aYYWOV4CC>>

>

> Register Now! ECOS Fall Meeting, 9/26-28, Wheeling, WV,

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>

> On Wed, Aug 10, 2016 at 10:14 AM, Parsons, Doug

<Parsons.Douglas@epa.gov<mailto:Parsons.Douglas@epa.gov>> wrote:

>

> Alex

>

> I look forward to working with you and your colleagues. Let me know when is a good

time to talk with you and your team.

>

> Best, doug

>

> From: Jones, Jim

> Sent: Wednesday, August 10, 2016 10:11 AM

> To: Alexandra Dapolito Dunn <adunn@ecos.org<<mailto:adunn@ecos.org>>>

> Cc: Wise, Louise <Wise.Louise@epa.gov<<mailto:Wise.Louise@epa.gov>>>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov<<mailto:Cleland-Hamnett.Wendy@epa.gov>>>; Barbery, Andrea

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<schmit.ryan@epa.gov<<mailto:schmit.ryan@epa.gov>>>; Morris, Jeff

<Morris.Jeff@epa.gov<<mailto:Morris.Jeff@epa.gov>>>; Cunningham-HQ, Barbara

<Cunningham-HQ.Barbara@epa.gov<<mailto:Cunningham-HQ.Barbara@epa.gov>>>;

Parsons, Doug <Parsons.Douglas@epa.gov<<mailto:Parsons.Douglas@epa.gov>>>

> Subject: RE: OCCSP Proposal from ECOS & First 10 Workplan Chemicals Engagement

>

> Alex, Doug Parsons, who works for Wendy will be our POC to work with your team to work up a proposal. I've copied Doug on this note. Thx. Jim

>

> From: Alexandra Dapolito Dunn [<mailto:adunn@ecos.org>]

> Sent: Thursday, August 04, 2016 9:02 AM

> To: Jones, Jim <Jones.Jim@epa.gov<<mailto:Jones.Jim@epa.gov>>>

> Cc: Wise, Louise <Wise.Louise@epa.gov<<mailto:Wise.Louise@epa.gov>>>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov<<mailto:Cleland-Hamnett.Wendy@epa.gov>>>; Barbery, Andrea

<Barbery.Andrea@epa.gov<<mailto:Barbery.Andrea@epa.gov>>>; Dominic Homac

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<schmit.ryan@epa.gov<<mailto:schmit.ryan@epa.gov>>>; Morris, Jeff

<Morris.Jeff@epa.gov<<mailto:Morris.Jeff@epa.gov>>>; Cunningham-HQ, Barbara

<Cunningham-HQ.Barbara@epa.gov<<mailto:Cunningham-HQ.Barbara@epa.gov>>>

> Subject: Re: OCCSP Proposal from ECOS & First 10 Workplan Chemicals Engagement

>

> Excellent. We will work on a proposal with your POC. Thanks so much!!!

>

> Sent from my iPhone

>

> On Aug 3, 2016, at 2:17 PM, Jones, Jim

<Jones.Jim@epa.gov<<mailto:Jones.Jim@epa.gov>>> wrote:

>

> Alex, You are correct, it would be under the auspices of ECOS but not one of the existing groups. I think a fresh start, like the law, would be good. I'll get you a poc from our end shortly. Jim

>

> From: Alexandra Dapolito Dunn [mailto:adunn@ecos.org]

> Sent: Wednesday, August 03, 2016 3:46 PM

> To: Jones, Jim <Jones.Jim@epa.gov<mailto:Jones.Jim@epa.gov>>

> Cc: Wise, Louise <Wise.Louise@epa.gov<mailto:Wise.Louise@epa.gov>>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov<mailto:Cleland-Hamnett.Wendy@epa.gov>>; Barbery, Andrea <Barbery.Andrea@epa.gov<mailto:Barbery.Andrea@epa.gov>>; Dominic Homac <dhomac@ecos.org<mailto:dhomac@ecos.org>>; Carolyn Hanson <chanson@ecos.org<mailto:chanson@ecos.org>>; Schmit, Ryan <schmit.ryan@epa.gov<mailto:schmit.ryan@epa.gov>>; Morris, Jeff <Morris.Jeff@epa.gov<mailto:Morris.Jeff@epa.gov>>; Cunningham-HQ, Barbara <Cunningham-HQ.Barbara@epa.gov<mailto:Cunningham-HQ.Barbara@epa.gov>>

> Subject: Re: OCCSP Proposal from ECOS & First 10 Workplan Chemicals Engagement

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> Jim -

>

> Your thought is to start a state group specific to TSCA implementation? Not a new association but a group ECOS would steward. What I hear them is not to use NPPR or an existing group. That would be a fine and we'd be happy to organize and coordinate such a group w OCCSP support. Who in your staff should we work with to keep this going. Questions are flying in from states and I think such a group is needed.

>

> Sent from my iPhone

>

> On Aug 1, 2016, at 1:47 PM, Jones, Jim <Jones.Jim@epa.gov<mailto:Jones.Jim@epa.gov>> wrote:

>

> Alex, A variety of stakeholder groups have offered their ideas regarding the first 10 chemicals that EPA evaluate under TSCA. We would welcome such informal views from States either individually or through ECOS.

>

> Related to the proposal from ECOS, my instinct is to create a separate group to focus on TSCA reform such as existing for air and water. I think topics 1 and 3 in your outline are the right topics. Let me know what you think of that idea and we'd be happy to further develop something. Jim

>

> From: Alexandra Dapolito Dunn [mailto:adunn@ecos.org]

> Sent: Thursday, July 28, 2016 1:54 PM

> To: Jones, Jim <Jones.Jim@epa.gov<mailto:Jones.Jim@epa.gov>>; Wise, Louise <Wise.Louise@epa.gov<mailto:Wise.Louise@epa.gov>>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov<mailto:Cleland-Hamnett.Wendy@epa.gov>>

> Cc: Barbery, Andrea <Barbery.Andrea@epa.gov<mailto:Barbery.Andrea@epa.gov>>; Dominic Homac <dhomac@ecos.org<mailto:dhomac@ecos.org>>; Carolyn Hanson <chanson@ecos.org<mailto:chanson@ecos.org>>

> Subject: OCCSP Proposal from ECOS & First 10 Workplan Chemicals Engagement

>

> Dear Jim and Colleagues: I wanted to bring back to your attention the proposal ECOS submitted to OCCSP to work with ECOS and NPPR on chemicals as the process begins to fly on which 10 workplan chemicals will be on EPA's list - with the first 5 selected by Sept. and the next 5 by the statutory deadline of Dec. 22. We'd like to find ways for ECOS to engage in this process - we see from the article below that the NGOs and other groups are getting into the process. As you know, we believe TSCA implementation - and EPA's role with states - is going to be critical - and right now we have no formal relationship with OCCSP to accomplish this (briefings, input, information sharing, convenings). We believe our proposal (attached again below) is critical to establishing key forums for advancing the state-federal relationship under the Lautenberg Law. FYI, OLEM responded positively to the proposal, so we could send you a version with OLEM removed and make it exclusive to OCCSP.

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> Advocacy begins for first substance reviews under new TSCA

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> Flame retardants, 1-BP and 1,4-dioxane 'likely' candidates

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> 27 July 2016 / Lautenberg, Priority substances, United States

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> Kelly Franklin

>

> Editor, North America

>

> Stakeholders have begun to weigh in on which substances should be the first to undergo risk evaluation under the newly reformed TSCA, and say they will be an early test of the EPA's new authorities.

> Under the recently modernised law, the agency must identify ten substances from its existing list of workplan chemicals and formally initiate a risk evaluation of these, within 180 days of enactment – that is, by 22 December. The scope of those risk evaluations must then be set out, within the following six months.

> The EPA has told Chemical Watch it has not yet identified any of the initial ten chemicals, and welcomes input from stakeholders in the substances' selection and in their subsequent scoping, once identified.

> Mike Belliveau, executive director of the NGO Environmental Health Strategy Centre (EHSC), said the EPA says the first five will probably be selected by September. So advocates should now begin to reach out to the agency about which chemicals they believe should be prioritised.

> First ten substances?

> The American Chemistry Council (ACC) says “workplan substances, for which EPA has had significant work underway, are logical candidates for the first ten substances under review.” And Bonni Kaufman, an attorney at Holland & Knight, said, in a recent webinar, that the EPA will “definitely” be selecting such substances.

> Last year, the EPA released initial assessments for flame retardant clusters<<https://chemicalwatch.com/31130/>>, centered around three workplan flame retardants:

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- > • tetrabromobisphenol A (TBBPA), within the brominated bisphenol A cluster;
- >
- > • ethanol, 2-chloro-, phosphate (3:1) (TCEP), in the chlorinated phosphate esters cluster; and
- >
- > • hexabromocyclododecane (HBCD), as part of the cyclic aliphatic bromides cluster.
- >
- > These chemicals could be in the first group, said EHSC's Mr Belliveau. And it is “likely” that 1,4-dioxane<<https://chemicalwatch.com/23601/>>and 1-bromopropane<<https://chemicalwatch.com/45522/>> (1-BP) will be included, he said, as the EPA has also started risk assessment on those.
- > Factors for prioritisation
- > NGO, the Environmental Working Group, recently published a list of substances it hopes to see in the EPA’s top ten. In addition to the flame retardants and 1-BP, it includes:
- >
- > • asbestos;
- >
- > • perchloroethylene (also known as tetrachloroethylene);
- >
- > • phthalates;
- >
- > • bisphenol A; and
- >
- > • DEHA.
- >
- > EWG legislative attorney, Melanie Benesh, said the fact that the first ten will be exempt from “pause preemption” – which would otherwise block a state from regulating any use of the substance that falls within the scope of its risk evaluation, until the EPA completes its review – was a factor in determining which substances to prioritise.
- > “Because it could take a decade for regulations to be implemented on any one of these chemicals, many of which can be found in consumer products, it is important that states have additional time to pass their own regulations, before being preempted,” she said.
- > She added that the NGO skipped nine persistent, bioaccumulative and toxic substances (PBTs) from its top picks, because these will be subject to expedited review under a separate section of the new law.
- > Potential health risk, number of Americans exposed, risk exposure and use in consumer products were also factored into EWG's prioritisation.
- > ‘Early test’
- > Whichever substances the agency chooses, said Mr Belliveau, they “will be an early test of how good a job EPA does in risk assessment”.
- > Regarding whether the named ten substances might precipitate the development of safer alternatives, he said that he hopes it sends “a signal to the marketplace to move quickly away from these chemicals and not wait for final EPA action.”
- > But he adds that because the new law is a risk-based statute, the “inherent flaws of risk assessment are fully exposed”.

> “EPA is only going to be make determinations and restrict chemical use, where there are robust data on chemical hazards and exposures, and we know that’s not true for most chemicals and most chemical uses.”

> But “within that constraint, hopefully signals are sent that everyone who has a stake should be looking for safer approaches,” he said.

>

> Ms Benesh added that “all 1,000 chemicals EPA has testified need to be reviewed should be evaluated and regulated as quickly as possible, and that these ten chemicals are merely a first step.” Alexandra Dapolito Dunn, Esq.

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> Executive Director & General Counsel

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> See my research on my SSRN Author page:

> <http://ssrn.com/author=1356207><<https://connect.emailsrvr.com/owa/redir.aspx?C=pQX3knSRPk2G3KwOd41aYYWOV4CC>>

>

> Save the Date! ECOS 2016 STEP Meeting, DC, July 21 "Making Connections: Water, Air, & Energy Innovation" www.ecos.org<<http://www.ecos.org>>

>

> ----- Forwarded message -----

> From: Alexandra Dapolito Dunn <adunn@ecos.org<<mailto:adunn@ecos.org>>>

> Date: Wed, Jun 29, 2016 at 4:53 PM

> Subject: OCCSP/OLEM Proposal from ECOS

> To: "Jones, Jim" <Jones.Jim@epa.gov<<mailto:Jones.Jim@epa.gov>>>

> Cc: "Barbery, Andrea" <Barbery.Andrea@epa.gov<<mailto:Barbery.Andrea@epa.gov>>>, Dominic Homac <dhomac@ecos.org<<mailto:dhomac@ecos.org>>>, Ken Zarker <kzar461@ecy.wa.gov<<mailto:kzar461@ecy.wa.gov>>>

>

>

> Dear Jim,

>

> Great job on the panel yesterday and congratulations on getting out the workplan and other TSCA implementation info today!

>
> Attached please find a proposal for work with your office and OLEM - Ken Zarker has reviewed it.
>
> I'm copying Andrea Barbery who is our cooperative agreement liaison in OCIR.
>
> Please let me know what else you need - Dominic Homac here is the lead on the details if any need changing, so I'm copying him too. I'll be on my cell tomorrow!
>
>
> Alexandra Dapolito Dunn, Esq.
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